

JAN 17 2013

S.B. NO. 19

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The state must encourage renewable energy
2 production in order to meet its Hawaii clean energy initiative
3 goals. However, under current statute, if a property owner or
4 lessor installs a renewable energy system on the property and
5 sells the electricity generated to the tenants or lessees on the
6 premises, the property owner or lessor would be considered a
7 public utility. This provides a powerful disincentive that
8 would discourage renewable energy generation on rental or leased
9 property.

10 The purpose of this Act is to remove that disincentive by
11 exempting landlords and lessors who install renewable energy
12 systems on their property from the definition of public utility.

13 SECTION 2. Section 269-1, Hawaii Revised Statutes, is
14 amended by amending the definition of "public utility" to read
15 as follows:

16 "Public utility":

- 17 (1) Includes every person who may own, control, operate,
18 or manage as owner, lessee, trustee, receiver, or



1 otherwise, whether under a franchise, charter,
2 license, articles of association, or otherwise, any
3 plant or equipment, or any part thereof, directly or
4 indirectly for public use for the transportation of
5 passengers or freight; for the conveyance or
6 transmission of telecommunications messages; for the
7 furnishing of facilities for the transmission of
8 intelligence by electricity within the State or
9 between points within the State by land, water, or
10 air; for the production, conveyance, transmission,
11 delivery, or furnishing of light, power, heat, cold,
12 water, gas, or oil; for the storage or warehousing of
13 goods; or for the disposal of sewage; provided that
14 the term shall include:

15 (A) An owner or operator of a private sewer company
16 or sewer facility; and

17 (B) A telecommunications carrier or
18 telecommunications common carrier; and

19 (2) Shall not include:

20 (A) An owner or operator of an aerial transportation
21 enterprise;



- 1 (B) An owner or operator of a taxicab as defined in
- 2 this section;
- 3 (C) Common carriers that transport only freight on
- 4 the public highways, unless operating within
- 5 localities, along routes, or between points that
- 6 the public utilities commission finds to be
- 7 inadequately serviced without regulation under
- 8 this chapter;
- 9 (D) Persons engaged in the business of warehousing or
- 10 storage unless the commission finds that
- 11 regulation is necessary in the public interest;
- 12 (E) A carrier by water to the extent that the carrier
- 13 enters into private contracts for towage,
- 14 salvage, hauling, or carriage between points
- 15 within the State; provided that the towing,
- 16 salvage, hauling, or carriage is not pursuant to
- 17 either an established schedule or an undertaking
- 18 to perform carriage services on behalf of the
- 19 public generally;
- 20 (F) A carrier by water, substantially engaged in
- 21 interstate or foreign commerce, that transports
- 22 passengers on luxury cruises between points



1 within the State or on luxury round-trip cruises
2 returning to the point of departure;

3 (G) Any user, owner, or operator of the Hawaii
4 electric system as defined under section 269-141;

5 (H) A telecommunications provider only to the extent
6 determined by the public utilities commission
7 pursuant to section 269-16.9;

8 (I) Any person who controls, operates, or manages
9 plants or facilities developed pursuant to
10 chapter 167 for conveying, distributing, and
11 transmitting water for irrigation and other
12 purposes for public use and purpose;

13 (J) Any person who owns, controls, operates, or
14 manages plants or facilities for the reclamation
15 of wastewater; provided that:

16 (i) The services of the facility are provided
17 pursuant to a service contract between the
18 person and a state or county agency and at
19 least ten per cent of the wastewater
20 processed is used directly by the state or
21 county agency that entered into the service
22 contract;



1 (ii) The primary function of the facility is the
2 processing of secondary treated wastewater
3 that has been produced by a municipal
4 wastewater treatment facility owned by a
5 state or county agency;

6 (iii) The facility does not make sales of water to
7 residential customers;

8 (iv) The facility may distribute and sell
9 recycled or reclaimed water to entities not
10 covered by a state or county service
11 contract; provided that, in the absence of
12 regulatory oversight and direct competition,
13 the distribution and sale of recycled or
14 reclaimed water shall be voluntary and its
15 pricing fair and reasonable. For purposes
16 of this subparagraph, "recycled water" and
17 "reclaimed water" means treated wastewater
18 that by design is intended or used for a
19 beneficial purpose; and

20 (v) The facility is not engaged, either directly
21 or indirectly, in the processing of food
22 wastes;



1 (K) Any person who owns, controls, operates, or
2 manages any seawater air conditioning district
3 cooling project; provided that at least fifty per
4 cent of the energy required for the seawater air
5 conditioning district cooling system is provided
6 by a renewable energy resource, such as cold,
7 deep seawater;

8 (L) Any person who owns, controls, operates, or
9 manages plants or facilities primarily used to
10 charge or discharge a vehicle battery that
11 provides power for vehicle propulsion; [and]

12 (M) Any person who:

13 (i) Owns, controls, operates, or manages a
14 renewable energy system that is located on a
15 customer's property; and

16 (ii) Provides, sells, or transmits the power
17 generated from that renewable energy system
18 to an electric utility or to the customer on
19 whose property the renewable energy system
20 is located; provided that, for purposes of
21 this subparagraph, a customer's property
22 shall include all contiguous property owned



1 or leased by the customer without regard to
2 interruptions in contiguity caused by
3 easements, public thoroughfares,
4 transportation rights-of-way, and utility
5 rights-of-way[-] and

6 (N) Any person who:

7 (i) Owns, controls, operates, or manages a
8 renewable energy system that is located on
9 such person's property; and

10 (ii) Provides, sells, or transmits the power
11 generated from that renewable energy system
12 to an electric utility or to a lessee or
13 tenant on the person's property where the
14 renewable energy system is located; provided
15 that, for purposes of this subparagraph, a
16 person's property shall include all
17 contiguous property controlled by such
18 person by fee ownership or by lease,
19 sublease, easement, or other means of
20 property control without regard to
21 interruptions in contiguity caused by
22 easements, transportation rights-of-way, and



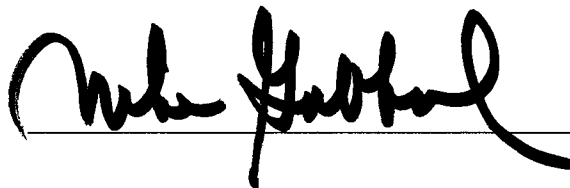
1 utility rights-of-way; provided further that
2 the rate schedule charged to the lessee or
3 tenant for the power generated by the
4 renewable energy system shall be established
5 for the duration of the lease and that the
6 lease agreement entered into by the lessee
7 or tenant reflects such rate schedule.

8 If the application of this chapter is ordered by the
9 commission in any case provided in paragraph (2)(C), (D), (H),
10 and (I), the business of any public utility that presents
11 evidence of bona fide operation on the date of the commencement
12 of the proceedings resulting in the order shall be presumed to
13 be necessary to the public convenience and necessity, but any
14 certificate issued under this proviso shall nevertheless be
15 subject to terms and conditions as the public utilities
16 commission may prescribe, as provided in sections 269-16.9 and
17 269-20."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 4. This Act shall take effect upon its approval.

21
INTRODUCED BY:



S.B. NO. **19**

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Report Title:

Renewable Energy; Landlords; Lessors; Public Utility

Description:

Exempts landlords and lessors who install renewable energy systems to their property from the definition of "public utility".

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

